

Hon. Marsha J. Pechman

FILED
LODGED
OCT 11 2006
AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NORTHWEST ECOSYSTEM ALLIANCE, et al.,)
Plaintiffs,)
v.)
MARK E. REY, et al.,)
Defendants.)

CASE NO. C04-844-P

STIPULATION AND [PROPOSED]
ORDER RE: INJUNCTION



04-CV-00844-ORD

Stipulation and [Proposed] Order re: Injunction
C04-844-P

Western Environmental Law Center, 541-485-2471
1216 Lincoln Street, Eugene, Oregon, 97401

1 *Whereas*, on August 1, the Court entered an Order on Summary Judgment in this case;

2 *Whereas*, on January 9, 2006, the Court entered an Order Issuing a Permanent Injunction;

3 *Whereas*, on January 24, 2006, Federal Defendants filed a Rule 59(e) Motion for

4 Reconsideration of Order and Judgment to narrow the scope of the injunction, and Defendants-

5 Intervenor filed a Rule 60 Motion to Alter or Amend the Judgment;

6 *Whereas*, on February 12, 2006, Plaintiffs opposed both motions, but stated a willingness to
7 meet and confer to discuss certain modifications of the judgment;

8 *Whereas*, on April 20, 2006, the Court issued an Order denying the motions for
9 reconsideration and to alter or amend the judgment, but stated that "the Court would be receptive to
10 a Rule 60(b) motion to modify the judgment if the parties engage in mediation and are able to reach
11 an agreement on exemptions to the judgment";

12 *Whereas*, the parties have since met and conferred regarding the scope of the injunction;

13 *Whereas*, Plaintiffs and Defendants-Intervenor agree that the injunction should be
14 modified, and Federal-Defendants do not oppose such a request;

15 *Therefore*, Plaintiffs and Defendants-Intervenor hereby stipulate to and respectfully request
16 that the Court enter an Order under Rule 60(b) amending paragraph 3 of the injunction, to state:

17
18 3. Defendants shall not authorize, allow, or permit to continue any logging or other habitat
19 disturbing activities on projects to which the 2004 ROD applied unless such activities are in
20 compliance with the 2001 ROD (as the 2001 ROD was amended or modified as of March
21 21, 2004), except that this order will not apply to:

21 a. Thinning projects in stands younger than 80 years old;

22 b. Replacing culverts on roads that are in use and part of the road system, and removing
23 culverts if the road is temporary or to be decommissioned;

24 c. Riparian and stream improvement projects where the riparian work is riparian planting,
25 obtaining material for placing in-stream, and road or trail decommissioning; and where the
26 stream improvement work is the placement large wood, channel and floodplain
27 reconstruction, or removal of channel diversions; and

28 d. The portions of projects involving hazardous fuel treatments where prescribed fire is
applied. Any portion of a hazardous fuel treatment project involving commercial logging

1 will remain subject to the survey and manage requirements except for thinning of stands
2 younger than 80 years old under subparagraph a. of this paragraph.

3 Dated: October 10, 2006.

Respectfully submitted,

5 /s/ Peter M.K. Frost

6 Peter M.K. Frost

7 Stephanie M. Parent

Attorneys for Plaintiffs

8 /s/ Brian Kipnis

9 Brian Kipnis

10 Wells D. Burgess

Attorneys for Federal Defendants

11 /s/ Scott W. Horngren

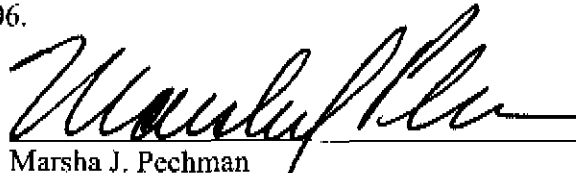
12 Scott W. Horngren

13 Shay S. Scott

Attorneys for Defendants-Intervenors

14
15 Pursuant to the stipulation of parties, IT IS SO ORDERED.

16
17 Dated this 11 day of Oct., 2006.

18 

19 Marsha J. Pechman

20 UNITED STATES DISTRICT JUDGE

21
22 Presented by: /s/ Peter M.K. Frost

23 Peter M.K. Frost, *pro hac vice*

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